

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

TERRORIST ATTACKS ON  
SEPTEMBER 11, 2001

03-MD-01570 (GBD)(SN)

REPORT &  
RECOMMENDATION

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SARAH NETBURN, United States Magistrate Judge.

TO THE HONORABLE GEORGE B. DANIELS:

This document relates to:

Mandelkow et al. v. Islamic Republic of Iran, No. 20-cv-00315  
Alcabes et al. v. Islamic Republic of Iran, No. 20-cv-00340  
Anderson et al. v. Islamic Republic of Iran, No. 20-cv-00354  
Ahearn et al. v. Islamic Republic of Iran, No. 20-cv-00355  
Asciutto et al. v. Islamic Republic of Iran, No. 20-cv-00411  
Amin et al. v. Islamic Republic of Iran, No. 20-cv-00412  
Basci et al. v. Islamic Republic of Iran, No. 20-cv-00415

The Court issued a Report and Recommendation on March 3, 2023, addressing seven default judgment motions brought on behalf of “Latent Injury Decedents” and their “Surviving Family Members.” ECF No. 8901.<sup>1</sup> Because that Report raised factual issues with several claims, Judge Daniels recommitted the motions to me to “receive and review Plaintiffs’ supplemental evidence and issue a Supplemental Report and Recommendation.” ECF No. 8920. Counsel has since submitted additional evidence. See ECF No. 9066. After reviewing that evidence and the broader record, the Court issues revised recommendations as discussed below.

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<sup>1</sup> All ECF numbers refer to the main MDL docket, No. 03-md-01570.

## DISCUSSION<sup>2</sup>

The Court previously determined that Iran is liable to people who died from latent injuries related to the 9/11 Attacks but not to their family members. See ECF No. 8901 at 2–16. For the former group, the Latent Injury Decedents, it set a baseline award of \$7 million and authorized an upward departure to one plaintiff with “devastating” injuries. Id. at 18; see id. at 16–19. Its analyses of liability and the appropriate baseline award were premised on two conditions: (1) that each decedent suffered a 9/11-related injury; and (2) that the injury was ultimately fatal.

On those two points, the evidence filed by five Latent Injury Decedents was inconclusive. See id. at 11, 26. Counsel has since submitted records that resolves those factual questions. With respect to the claims brought on behalf of **Marion Claire Jones, Paul Murphy, Mary Elizabeth Reynolds, and Freddie Wallace-Rakis**, the supplemental evidence establishes that the decedents’ deaths were caused by a 9/11-linked injury. See ECF Nos. 9066 at 2–7, 9066-1, 9066-2, 9066-3, 9066-4. Accordingly, their estates are entitled to baseline awards of \$7 million.

With respect to the claims brought on behalf of **Victor Casaletto**, the supplemental evidence establishes that he sustained a 9/11-related injury but did not die from it. See ECF No. 9066 at 7–8. Victor Casaletto was a building engineer for the New York Stock Exchange. His work there on 9/11 and in the days after exposed him to toxins that led to skin cancer. His condition caused growths “everywhere,” and his wife describes his lasting “psychological trauma.” ECF No. 8360-13 at 20–21. Because these injuries are analogous to the types of injuries considered “significant” under the Court’s personal injury framework, ECF No. 5879 at 6, his

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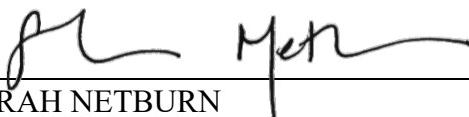
<sup>2</sup> This Report and Recommendation incorporates the contents of the March 3, 2023 Report and Recommendation, ECF No. 8901 at 1–20, but not its Appendix, ECF No. 8901 at 21–26.

estate requests and the Court recommends an award of \$5 million, see ECF No. 9066 at 8 (requesting \$5 million in pain and suffering damages).

Separately, the Court notes that the personal representatives of Latent Injury Decedents **Rebecca A. Buck, Dennis M. Organ, Robert Carlo Rossi, Michael F. Shipsey, and Donna Siciliano** have died. See ECF Nos. 8348-2, 8456-2, 8375-2. To date, no new personal representatives have been substituted. The Court therefore recommends denying their motions with leave to re-file once “proper part[ies]” are substituted. Fed. R. Civ. P. 25(a)(1).

### CONCLUSION

For the reasons discussed above and in its March 3, 2023 Report and Recommendation, see ECF No. 8901 at 1–20, the Court recommends: (1) GRANTING motions for partial default judgment brought on behalf of the Latent Injury Decedents listed in Appendix A;<sup>3</sup> (2) awarding them damages as described in Exhibit A; (3) awarding them prejudgment interest of 4.96 percent compounded annually running from September 11, 2001, until the date of judgment; (4) permitting them to apply for punitive, economic, or other damages later; and (5) DENYING the motions for partial default judgment brought by Surviving Family Members.



SARAH NETBURN  
United States Magistrate Judge

DATED: July 18, 2023  
New York, New York

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<sup>3</sup> The Court recommends only the judgments and awards listed in Appendix A attached to this Report and Recommendation. The appendix to the prior Report and Recommendation, ECF No. 8901 at 21–26, is *not* part of the Court’s final recommendation.

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**NOTICE OF PROCEDURE FOR FILING OBJECTIONS  
TO THIS REPORT AND RECOMMENDATION**

The parties shall have fourteen days from the service of this Report and Recommendation to file written objections under 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure. A party may respond to another party's objections within fourteen days after being served with a copy. Fed. R. Civ. P. 72(b)(2). These objections shall be filed with the Clerk of the Court, with courtesy copies delivered to the chambers of the Honorable George B. Daniels at the United States Courthouse, 500 Pearl Street, New York, New York 10007, and to any opposing parties. See 28 U.S.C. § 636 (b)(1); Fed. R. Civ. P. 6(a), 6(d), 72(b). Any requests for an extension of time for filing objections must be addressed to Judge Daniels. The failure to file these timely objections will result in a waiver of those objections for purposes of appeal. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(d), 72(b); Thomas v. Arn, 474 U.S. 140 (1985).

## APPENDIX A

The Court recommends awards for the following Latent Injury Decedents via the personal representatives listed in ECF Nos. 8348-2, 8352-2, 8356-2, 8360-2, 8367-2, 8371-2, 8375-2.

<b>Estate</b>	<b>Case</b>	<b>Damages</b>
Accurso, Victor L.	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Acevedo, Steven J.	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Achong, Charles William	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Armenta, Daniel Victor	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Askin, Haskell	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Atlas, Keith Edward	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Barocas, Sheldon	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Bastidas, Mario	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Becker, Arthur S.	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Behette, Michael	<u>Basci</u> , No. 20-cv-00415	\$7,000,000
Benson, Charles Michael	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Bohlmann, John	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Borowski, Alfred	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Brenneisen, Ronald Robert	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Bruzza, James	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Byrd, Henry Bruce	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
Campbell, Maryann	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Cao, Miao Ling	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Carlock, Owen Thomas	<u>Basci</u> , No. 20-cv-00415	\$7,000,000
Carroll, Norma	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Casaletto, Victor	<u>Mandelkow</u> , No. 20-cv-00315	\$5,000,000

Cassella, Joseph Patrick	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Chirico, Pat	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Christofilakes, Christopher	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Codner, Robert Royce	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Costello, James Nicholas	<u>Basci</u> , No. 20-cv-00415	\$7,000,000
Coyne, Ronald Thomas	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
DeFrancisci, Thomas	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Dellacona, Richard A.	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
Devlin, John Charles	<u>Basci</u> , No. 20-cv-00415	\$7,000,000
Dillon, John Charles	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
Doepfner, Thomas P.	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Dong, John	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Drobchinskiy, Aleksandr	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
Eysser, George	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Ferguson, Charles	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
Finck, Kenneth John	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Finelli, Nicholas Gerard	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Fitzpatrick, Joseph Francis, Sr.	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Garipoli, Christine Noelle	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
Goggin, John Edward	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Gonzalez, Fernando Augusto	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
Gunzelman, Charles Richard	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Haberland, Wayne Kenneth	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
Halpin, John James	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
Harris, Mark	<u>Basci</u> , No. 20-cv-00415	\$10,000,000

Henry, Keith Owen	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Hess, Robert M.	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Hittmann, Stephan	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Hough, John Joseph	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
Humphrey, Nancy Alicia	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Iannace, Arthur Bartolomeo	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
Jones, Marion Claire	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Kahanov, Phoebe Catherine	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
Kelly, James Joseph	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Krasko, Geraldine	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Kristoffersen, John Frank	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Laks, Mitchell David	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Lampkin, Michael	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
LaPointe, John Paul	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Loughery, Michael John	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Lynch, Joseph W.	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Machado, Alberto	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
MacMenamie, Duane F.	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
MacPherson-Williams, Gwynne K.	<u>Basci</u> , No. 20-cv-00415	\$7,000,000
Mandelkow, James William, Jr.	<u>Mandelkow</u> , No. 20-cv-00315	\$7,000,000
Marcucci, Daniel	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Marion, Timothy Charles	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Marshall, James J.	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
Martin, Joseph James	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Mausberg, Gary Gerald	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000

Mazur, Steven	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
McCain, Robert Kenner, Jr.	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
McCoy, Stephen M.	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
McKee, John Patrick	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
McQuade, Kevin Patrick	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Miller, Trevor Arnold	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Morigi, Paul Steven	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Morrissey, John Patrick	<u>Alcabes</u> , No. 20-cv-00340	\$7,000,000
Mucaria, Marilyn	<u>Basci</u> , No. 20-cv-00415	\$7,000,000
Munro, James Bronson	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
Murphy, Paul	<u>Basci</u> , No. 20-cv-00415	\$7,000,000
Mustillo, Michael	<u>Basci</u> , No. 20-cv-00415	\$7,000,000
Negri, Robert Daniel, Jr.	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
Norfot, Michael Peter	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
Ortiz, Milagros	<u>Basci</u> , No. 20-cv-00415	\$7,000,000
O'Sullivan, Daniel	<u>Basci</u> , No. 20-cv-00415	\$7,000,000
O'Toole, Joseph	<u>Basci</u> , No. 20-cv-00415	\$7,000,000
Petrone, Robert	<u>Basci</u> , No. 20-cv-00415	\$7,000,000
Phillips, Stephen E.	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
Quinn, Michael V.	<u>Basci</u> , No. 20-cv-00415	\$7,000,000
Raimondi, Michael, Jr.	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Rappe, Larry Ordell	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000
Reilly, Robert J.	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Reingold, Albert	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
Relyea, Larry Scott	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000

Rexach, Antolino	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Reynolds, Mary Elizabeth	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
Rodenheiser, Richard Edmund	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Rolon, Robert	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Rooney, Kevin A.	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
Rozenberg, Boris	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Sargent, Colin Michael	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Schiavone, James Anthony	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
Scoblic, Joseph M.	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
Shea, Michael Patrick	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Sheldon, William	<u>Ahearn</u> , No. 20-cv-00355	\$7,000,000
Sherman, Howard Bernard	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Simmons, Martin C.	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Skipton, Stephen E., Sr.	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
Smith, Michael Paul, Jr.	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
Steiner, Michael	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Svoboda, Frank Richard	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Switzer, William E.	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Thomas, George M.	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Turner-Cox, Vikki Allyn	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Vashovsky, Sam	<u>Amin</u> , No. 20-cv-00412	\$7,000,000
Vaughan, Stephen	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Wallace-Rakis, Freddie	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Walsh, Elizabeth Ann	<u>Anderson</u> , No. 20-cv-00354	\$7,000,000
Waters, Gregory Alan	<u>Asciutto</u> , No. 20-cv-00411	\$7,000,000